

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-33346

In re:

Lee L. Vue,

Debtor.

**NOTICE OF HEARING AND
MOTION OBJECTING TO
CLAIMED EXEMPTIONS**

TO: The Debtor and other entities specified in Local Rule 9013-3.

1. Patti J. Sullivan, the duly appointed Chapter 7 trustee herein ("Trustee") moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 11:00 a.m. on October 6, 2004, in Courtroom 228B, U.S. Bankruptcy Court, 316 North Robert Street, St. Paul, MN 55101.

3. Any response to this motion must be filed and delivered not later than September 28, 2004 which is seven days before the time set for the hearing or filed and served by mail not later than September 23, 2004 which is ten days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on June 4, 2004. The first meeting of creditors was originally scheduled for July 6, 2004 and was concluded on July 19, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 and 9013-2.

6. Attached hereto as Exhibit A is a true and correct copy of Debtor's Schedule C.

7. Objection is made to the Debtor's claimed homestead exemption as legally described at Exhibit A hereto ("Property") because it appears that the Debtor had agreed to sell the Property and did not occupy the Property at the time that this bankruptcy case was commenced and therefore the Property is not subject to exemption by the Debtor.

8. Objection is also made to the Debtor's claimed exemption of a personal injury claim scheduled as "unknown" to assure that all pre-petition special damages and all punitive damages remain property of the bankruptcy estate.

WHEREFORE, the Trustee requests an order the Court:

1. Denying the Debtor's claimed homestead exemption of real property as described in the Debtor's Schedule C.

2. Denying any claimed exemption of the Debtor in pre-petition special damages or punitive damages related to or arising from the personal injury claim.

FULLER, SEAVER & RAMETTE, P.A.

Dated: July 30, 2004

By: /e/ Randall L. Seaver

Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Patti J. Sullivan, Trustee

VERIFICATION

I, Patti J. Sullivan, the duly appointed Chapter 7 trustee of this Bankruptcy Estate, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on July 29, 2004



Patti J. Sullivan

In re LEE L. VUE,
Debtor

Case No. _____

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- ☐ 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
- ☒ 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
<u>Real Property</u>			
Lot 20, Block 3, Kiefer, Schurmeier & Wild's Subdivision of Lots 1, 2 & 3 "Collins' Out Lots". Ramsey County, Minnesota	Minn. Stat. §§ 510.01	44,676.00	175,000.00
<u>Household Goods and Furnishings</u>			
Household goods and furnishings	Minn. Stat. § 550.37(4)(b)	500.00	500.00
<u>Wearing Apparel</u>			
Wearing Apparel	Minn. Stat. § 550.37(4)(a)	200.00	200.00
<u>Other Contingent and Unliquidated Claims of Every Nature</u>			
Personal Injury Claim - Atty. Hlee Ly ph. 651-494-0864 "amount not settled debtor claims as exempt amount allowable under statutory law"	Minn. Stat. § 550.37(22)	Unknown	Unknown
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
1995 Ford Windstar Van	Minn. Stat. § 550.37(12a)	2,500.00	2,500.00

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 04-33346

In re:

Lee L. Vue,

UNSWORN CERTIFICATE OF SERVICE

Debtor.

I, Kari L. Fogarty, declare under penalty of perjury that on July 30, 2004, I mailed a copy of the Notice of Hearing and Motion Objecting to Claimed Exemptions and proposed Order by first class mail, postage prepaid to each entity named below at the address stated below for each entity:

Lee L. Vue
1257 East Minnehaha
St. Paul, MN 55106

Robert J. Hoglund
Hoglund, Chwialkowski, Greeman &
Bergmanis
P.O. Box 130938
Roseville, MN 55113

Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

FULLER, SEAVER & RAMETTE, P.A.

Dated: July 30, 2004

By: /e/ Kari L. Fogarty
Kari L. Fogarty
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-33346

In re:

Lee L. Vue,

ORDER

Debtor.

At St. Paul, Minnesota this _____ day of _____, 2004.

The above matter came before the court on the objection of the Chapter 7 Trustee to exemptions. Appearances were as noted upon the record.

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED:

That the Trustee's objection is sustained and:

1. The Debtor's claimed homestead exemption of real property as described in the Debtor's Schedule C is denied.

2. Any claimed exemption of the Debtor in pre-petition special damages or punitive damages related to or arising from the personal injury claim is denied.

BY THE COURT:

Gregory F. Kishel
Chief U.S. Bankruptcy Judge